

# EXHIBIT A



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21AB-CC00056 - MACZUK FARMS, INC. V FIRST BANK CARD, A DIVISION  
O (E-CASE)

<a href="#">Case File</a>	<a href="#">Parties &amp; Attorneys</a>	<a href="#">Docket Entries</a>	<a href="#">Charges, Judgments &amp; Sentences</a>	<a href="#">Service Information</a>	<a href="#">Filings Due</a>	<a href="#">Scheduled Hearings &amp; Trials</a>	<a href="#">Civil Judgments</a>	<a href="#">Garnishments/Execution</a>
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04/30/2021 ☐ [Entry of Appearance Filed](#)

Entry of Appearances on Behalf of First Bank Card, a Division of the First Bank of Omaha; Electronic Filing Certificate of Service.

**Filed By:** ZACHARY R MCMICHAEL

**On Behalf Of:** FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA

04/15/2021 ☐ [Return Service - Other](#)

Document ID - 21-SMOS-13; Served To - FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA; Server - ; Served Date - 08-APR-21; Served Time - 16:20:00; Service Type - Sheriff Department; Reason Description - Served

**Associated Entries:** 03/26/2021 - [Summons Issued-Circuit](#)

☐ [Notice of Service](#)

Sheriffs Return; Electronic Filing Certificate of Service.

**Filed By:** DAMIAN ROBERT STRUZZI

**On Behalf Of:** MACZUK FARMS, INC.

03/26/2021 ☐ [Summons Issued-Circuit](#)

Document ID: 21-SMOS-13, for FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA.

**Associated Entries:** 04/15/2021 - [Return Service - Other](#)

03/23/2021 ☐ [Filing Info Sheet eFiling](#)

**Filed By:** DAVID L BAYLARD

☐ [Pet Filed in Circuit Ct](#)

Petition for Damages or Reimbursement of Unauthorized Credit Card Charges.

**Filed By:** DAVID L BAYLARD

**On Behalf Of:** MACZUK FARMS, INC.

☐ [Judge Assigned](#)

IN THE CIRCUIT COURT OF THE COUNTY OF FRANKLIN  
STATE OF MISSOURI

MACZUK FARMS, INC.,	)	
	)	
Plaintiffs,	)	
	)	Cause No. _____
vs.	)	
	)	Division No. _____
FIRST BANK CARD, a Division of the	)	
FIRST BANK OF OMAHA,	)	
Serve: Officer or Manager	)	
1620 Dodge Street, Omaha, NE 68197	)	
	)	
Defendant.	)	

**PETITION FOR DAMAGES OR REIMBURSEMENT  
OF UNAUTHORIZED CREDIT CARD CHARGES**

Comes now Plaintiff, and for its causes of action against Defendant states as follows:

1. Plaintiff Maczuk Farms, Inc. is a duly organized and existing Missouri corporation with its principal place of business located in Franklin County, Missouri.
2. Defendant is a banking corporation and credit card company with its principal place of business located in Omaha, Nebraska, but doing business in the State of Missouri.
3. Venue is proper in Franklin County, Missouri as the Defendant resides out-of-state and suit can, therefore, be brought in any county in Missouri.
4. Plaintiffs entered into a credit card agreement with Defendant for use in Plaintiffs' farming business.
5. One of Plaintiffs' employees improperly and without authorization used the credit card in question for the employee's own purposes, defrauding Plaintiffs.
6. Plaintiffs notified Defendant by letter of the fraudulent charges. Said notification is attached hereto as Exhibit "A" and incorporated herein more fully by reference.

7. Defendant failed to remove the unauthorized charges from Plaintiffs' credit card account and continues to attempt to charge Plaintiffs for said charges.

8. Pursuant to the parties' credit card agreement, Defendant agreed to honor and pay all authorized charges, but Defendant breached their agreement by paying unauthorized and forged charges.

9. Defendant's charging Plaintiff with unauthorized charges is in direct breach of the parties' agreement, and said breach damaged Plaintiffs by the amount of said unauthorized charges, in the approximate amount of \$213,741.

WHEREFORE, Plaintiffs pray for a judgment against Defendant in the amount of all aforesaid unauthorized charges or, in the alternative, for an order compelling Defendant to reimburse Plaintiff's credit card account in the amount of all unauthorized charges; for its attorney fees and costs; and for such other and further relief as the Court deems just and proper.

BAYLARD, BILLINGTON, DEMPSEY  
& JENSEN, P.C.

By: 

DAVID L. BAYLARD #25595  
30 S. McKinley  
Union, MO 63084  
Union Line: 636-583-5103  
E-mail: dbaylard@bbd-law.com  
ATTORNEY FOR PLAINTIFFS

DAVID L. BAYLARD  
P. DANIEL BILLINGTON  
MICHAEL C. DEMPSEY  
CHRISTOPHER W. JENSEN  
DAMIAN R. STRUZZI

ATTORNEYS AT LAW  
**BAYLARD, BILLINGTON,  
DEMPSEY & JENSEN, P.C.**

30 S. McKINLEY • UNION, MISSOURI 63084  
(636) 583-5103 • FAX (636) 583-1877  
www.bbd-law.com

LEIGH A. GOUCHER  
ADAM J. PIONTEK



February 28, 2020  
CERTIFIED MAIL #7018 2290 0000 9941 3661  
RETURN RECEIPT REQUESTED

First Bankcard  
P.O. Box 2818  
Omaha, NE 68103-2818

RE: First Bankcard Credit Card Accounts Ending #3477 and #7004

Dear Sir or Madam:

The undersigned represents William Maczuk and Maczuk Farms Trucking, LLC in connection with their credit card account referenced above.

I enclose a copy of my clients' credit card monthly statements for your review. Please note that the items on the credit card statements highlighted in yellow were not authorized by either of my clients nor did my clients receive any benefits from those fraudulent charges.

Accordingly, I would appreciate it if you would recredit my clients' credit card account in the amounts of those unauthorized charges immediately.

If you have any questions regarding anything contained in this letter, please do not hesitate to contact the undersigned directly.

Thank you for your kind attention and cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "DLB".

DAVID L. BAYLARD

DLB/tlt  
Enc.  
pc William Maczuk  
Maczuk Farms Trucking, LLC



U.S. Postal Service™  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**OFFICIAL USE**

Certified Mail Fee  
 \$3.55

Extra Services & Fees (check box, add fee as appropriate):  
☒ Return Receipt (hardcopy)  
☐ Return Receipt (electronic)  
☐ Certified Mail Restricted Delivery  
☐ Adult Signature Required  
☐ Adult Signature Restricted Delivery

Postage  
 \$7.75

Total Postage and Fees  
 \$11.30

Sent To:  
 Street and Apt. No., or PO Box No.  
First Bankcard  
PO Box 2818  
 City, State, ZIP+4®  
Omaha NE 68103

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here  
 FEB 28 2021  
 UNION MO POST OFFICE

179E 1466 0000 0622 9102

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
First Bankcard  
PO Box 2818  
Omaha, NE  
68103-2818

2. Article Number (Transfer from service label)  
7018 2290 0000 9941 3661

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
☒ Agent  
☐ Addressee  
Keith Forbes  
 B. Received by (Printed Name)  
KEITH FORBES  
 Date of Delivery  
☐ Yes  
☒ No  
 D. Is delivery address different from item 1?  
 If YES, enter delivery address below:

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☒ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt


MAR - 2 2021  
 OMAHA, NE 68103



## IN THE 20TH JUDICIAL CIRCUIT, FRANKLIN COUNTY, MISSOURI

Judge or Division: I I LAMKE	Case Number: 21AB-CC00056
Plaintiff/Petitioner: MACZUK FARMS, INC.	Plaintiff's/Petitioner's Attorney/Address: DAVID L BAYLARD BAYLARD BILLINGTON DEMPSEY & JENSEN PC 30 S MCKINLEY AVE UNION, MO 63084-1812
Defendant/Respondent: FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA	Court Address: 401 E. MAIN STREET UNION, MO 63084
Nature of Suit: CC Breach of Contract	(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri  
(Except Attachment Action)**

<b>The State of Missouri to:</b> FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA <b>Alias:</b> <b>C/O OFFICER OR MANAGER</b> <b>1620 DODGE STREET</b> <b>OMAHA, NE 68197</b>   <b>COURT SEAL OF</b> <b>FRANKLIN COUNTY</b>	You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action. <u>March 26, 2021</u> Date	<u>Billy D. Miller</u> /s/ pmh d.c. Clerk
Further Information:		

**Officer's or Server's Affidavit of Service**

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
 in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year).

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Service Fees**

Summons \$ \_\_\_\_\_  
 Non Est \$ \_\_\_\_\_  
 Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
 Total \$ \_\_\_\_\_

See the following page for directions to officer making return on service of summons.

### **Directions to Officer Making Return on Service of Summons**

A copy of the summons and a copy of the motion must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and motion when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and motion and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age who permanently resides with the defendant/respondent, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.



STATE OF NEBRASKA }  
COUNTY OF DOUGLAS }

SHERIFF # 21006479  
COURT CASE #: OS 21ABCC00056  
COURT DOC #:  
ATTY: A - MAIL BACK TO ATTORNEY

RE: MACZUK FARMS, INC. V. FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA

RECEIVED DATE: APRIL 8, 2021

SERVICE ON: FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA

ACTION TYPE AND PAPER TYPE: SUMMONS OUTSTATE, SUMMONS FOR PERSONAL SERVICE  
OUTSIDE THE STATE OF MISSOURI, PETITION FOR DAMAGES OR REIMBURSEMENT OF  
UNAUTHORIZED CREDIT CARD CHARGES

RETURNED: SERVED

SERVICE TYPE: COMPANY LEAVE

SERVEE: TAMBRA KIDD

RELATIONSHIP: PERSONAL BANKER

SERVICE DATE/TIME: APRIL 8, 2021 4:20 PM

SERVICE RECORD:

04/08/2021 04:20 PM SERVED @ 1620 DODGE STREET OMAHA NE

*Jerry E Mohr*

JERRY MOHR, DESIGNATED AGENT OF THE SHERIFF  
AUTHORIZED AND APPOINTED BY THOMAS J. WHEELER, SHERIFF

SERVICE	\$50.00
TOTAL	\$50.00

*Thomas J. Wheeler*

*Crystal Vlcek*  
*4/12/2021*

GENERAL NOTARY - State of Nebraska  
CRYSTAL VLCEK  
My Comm. Exp. June 28, 2023



## IN THE 20TH JUDICIAL CIRCUIT, FRANKLIN COUNTY, MISSOURI

Judge or Division: I I LAMKE	Case Number: 21AB-CC00056	(Date File Stamp)
Plaintiff/Petitioner: MACZUK FARMS, INC.	Plaintiff's/Petitioner's Attorney/Address: DAVID L BAYLARD BAYLARD BILLINGTON DEMPSEY & JENSEN PC 30 S MCKINLEY AVE UNION, MO 63084-1812	
Defendant/Respondent: FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA	Court Address: 401 E. MAIN STREET UNION, MO 63084	
Nature of Suit: CC Breach of Contract		

**Summons for Personal Service Outside the State of Missouri**  
(Except Attachment Action)

The State of Missouri to: FIRST BANK CARD, DIV OF THE FIRST BANK OF OMAHA  
Alias:

C/O OFFICER OR MANAGER  
1620 DODGE STREET  
OMAHA, NE 68197

COURT SEAL OF



FRANKLIN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

March 26, 2021

Date

Clerk

Further Information:

**Officer's or Server's Affidavit of Service**

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (title).
  - ☐ other: \_\_\_\_\_ (address)

Served at \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year).

- I am: (check one)
- ☐ the clerk of the court of which affiant is an officer.
  - ☐ the judge of the court of which affiant is an officer.
  - ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
  - ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Service Fees**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

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Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.

**IN THE CIRCUIT COURT OF THE COUNTY OF FRANKLIN  
STATE OF MISSOURI**

MACZUK FARMS, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Cause No. 21AB-CC00056
	)	
FIRST BANK CARD, a Division of the	)	
FIRST BANK OF OMAHA,	)	
	)	
Defendant.	)	

**ENTRY OF APPEARANCE**

Zachary R. McMichael, of the law firm Capes, Sokol, Goodman & Sarachan, P.C., and Cory J. Rooney, of the Law Office of Cory J. Rooney, PC, hereby enter their appearances on behalf of Defendant First Bank Card, a Division of the First Bank of Omaha.

Respectfully submitted,

**CAPE, SOKOL, GOODMAN & SARACHAN, P.C.**

By: /s/ Zachary R. McMichael  
Zachary R. McMichael, #68251  
8182 Maryland Avenue, Fifteenth Floor  
St. Louis, Missouri 63105  
Telephone: (314) 721-7701  
Facsimile: (314) 721-0554  
[mcmichael@capessokol.com](mailto:mcmichael@capessokol.com)

and

**LAW OFFICE OF CORY J. ROONEY, PC**

By: /s/ Cory J. Rooney  
Cory J. Rooney, #65733  
P.O. Box 382  
Omaha, Nebraska 68101  
Telephone: (402) 933-9865  
[rooneylaw@outlook.com](mailto:rooneylaw@outlook.com)

***Attorneys for Defendant First Bank Card, a Division of  
the First Bank of Omaha***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 30<sup>th</sup> day of April, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system.

/s/ Zachary R. McMichael